

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

IN THE MATTER OF: LARRY LaVOICE)
_____))

FILE NO. 1000140

NOTICE OF HEARING

TO THE RESPONDENT:

Larry LaVoice
(CRD#:2125013)
250 West 50th Street
New York, New York 10019

Larry LaVoice(CRD#:2125013)
C/o MORGAN STANLEY SMITH BARNEY
1300 N. THAMES STREET 6TH FLOOR
BALTIMORE, Maryland 21231

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 20th day of October, 2010 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky Esq., or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered denying Larry LaVoice's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E (4) of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

1. That on July 10, 2010, MORGAN STANLEY SMITH BARNEY, a registered dealer, filed a Form U-4 application for registration of the Respondent as a salesperson in the State of Illinois pursuant to Section 8 of the Act.
2. That on February 9, 2010, the New York Stock Exchange LLC (NYSE) issued Hearing Board Decision 10-NYSE-2 (Decision) Which sanctioned the Respondent as follows:

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- a. censured;
 - b. two-month suspension from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization; and
 - c. \$25,000 fine.
3. That the Decision listed the following background information:
- a. The Respondent was born in 1956. He has been employed in the financial industry since 1991 when he was hired by Member Firm A as a retail stockbroker. The Respondent holds a Series 7 professional license. He was employed at Citigroup Global Markets, Inc. ("CGMI" or the "Firm") and its predecessor broker-dealer, Salomon Smith Barney, Inc., in its 666 Fifth Avenue, New York, NY branch ("Branch 313") as a financial consultant from January 1997 until August 2002. On August 9, 2002, he voluntarily resigned from CGMI in order to join Member Firm B. He is currently employed in the securities industry as a registered representative at Member Firm B.
 - b. On December 1, 2003, Enforcement opened an investigation of the Firm following the filing of Form RE-3 Submissions of required information ("RE-3") and Form U-5 Uniform Termination Notices for Securities Industry Registration ("U-5") by the Firm on November 20, 2003 in connection with market timing of mutual funds by certain financial consultants. The Respondent was not one of those financial consultants.
 - c. By letter dated October 26, 2005, which he received, Enforcement notified the Respondent that he was being investigated in connection with his mutual fund market timing activities at CGMI.
 - d. On July 13, 2007, an NYSE Hearing Officer issued Citigroup Global Markets, Inc., Decision 07-105 (NYSE Hearing Board July 13, 2007) on behalf of the New York Stock Exchange, LLC accepting a "Stipulation of Facts and Consent to Penalty," pursuant to which the Firm, without admitting or denying guilt, consented to a finding that it violated: NYSE Rule 342; NYSE Rule 401(a) and 476(a); and Section 17(a) of the Securities and Exchange Act of 1934 ("Exchange Act"), and Rules 17a-3 and 17a4 thereunder, and NYSE Rule 440 in connection with mutual fund market timing. The Firm consented to the imposition of a censure and a total payment of \$50,000,000 including disgorgement and penalties.

4. That the Decision found:

Overview

- a. "Market timing" can be defined as: (i) frequent buying and selling of shares of the same mutual fund or (ii) buying or selling mutual fund shares in order to exploit inefficiencies in mutual fund pricing. Market timing, while not illegal, can harm mutual fund shareholders because it can dilute the value of their shares. Market timing can also disrupt the management of the mutual fund's investment portfolio and can cause the mutual fund to incur considerable extra costs associated with excessive trading and, as a result, cause potential damage to other shareholders in the funds. Market timing may violate federal securities laws and NYSE Rules, for example, if certain methods are used: (i) to conceal the nature or identity of a transaction from a mutual fund that would otherwise not accept a particular trade or series of trades; or (ii) to induce a mutual fund to accept trades that it otherwise would not accept under its own market timing policies.
- b. The Firm maintained dealer agreements with various mutual fund companies, which, along with the fund prospectus and statement of additional information, set forth the terms and conditions regarding the purchase and sale of mutual funds. Mutual fund companies typically prohibit market timing or impose limitations on the frequency of trades in order to limit market timing.
- c. During the time period of approximately 2000 through August 2002 (the "Relevant Period"), certain registered representatives ("RRs") at the Firm's Manhattan branch 313, including the Respondent, engaged in improper market timing of mutual funds by using a variety of methods to execute market timing trades that otherwise might have been rejected by the mutual funds.
- d. The Firm was aware that certain customers engaged in market timing during most of the Relevant Period. In May 2000 the Firm issued policies requiring market timing RRs and customers to abide by fund restrictions. The Firm further required that any client intending to engage in market timing be provided a memo describing the trading risks, including the fund's ability to reject such trades.

- e. The Firm identified its mutual fund trades by account number, registered representative numbers ("RR numbers"), and branch code. In the case of mutual fund exchanges, the Firm's systems did not transmit to the mutual fund the information underlying these codes, such as the customer's name, tax ID, the FC's name, the branch name, or the branch location. Because of the limited information transmitted to the funds by the Firm, the mutual funds could only identify brokers by their RR numbers and could only identify the customers by account number.
- f. Mutual fund companies attempted to monitor the trading activity within their family of funds. If objectionable trading was identified, mutual fund companies sent block/and or stop notices to broker-dealers and/or individual RRs whom the fund companies suspected to be engaged in market timing.
- g. These notices typically included the RR number, the account number, a statement of the mutual fund company's objection to market timing and a notification of restrictions on market timing trading, including the prohibition of future trades in specific blocked accounts, the prohibition of future trades by a particular RR, or the prohibition of future trades bearing a particular branch office identification number. Certain RR's, including the Respondent, failed to comply with the funds' requests to discontinue market timing.
- h. The rejection of a trade was often dependent upon the funds' ability to discern whether or not an exchange was in fact a market timing exchange. As described below, through the use of various practices, certain RRs, including the Respondent, executed unwelcome exchanges by circumventing the mutual funds' attempts to surveil for market timing.
- i. Under certain circumstances, there may be legitimate business purposes for sharing RR numbers, using multiple account numbers, and using multiple RR numbers. However, these practices when used improperly, may deceive mutual fund companies into accepting market timing trades they otherwise might have rejected by making it appear as though the trades were being entered by different RRs on behalf of different customers. As described below, some RRs employed these practices.

- j. Furthermore, although the Firm's compliance policies required RRs to aggregate accounts under common ownership and control to determine whether mutual fund trade activity violated the exchange policies of proprietary and non-proprietary mutual funds, the Firm's systems did not provide the mutual funds with information concerning the number of other accounts through which the market timing customer was trading in the same mutual fund or fund family. Without additional information providing the ownership and control of each account as well as the identity of those brokers using each RR number and branch code, the mutual funds and variable annuity companies were at a disadvantage in detecting improper market timing transactions through multiple accounts controlled by the same customer.

Use of multiple RR Numbers

- k. During the Relevant Period, the Respondent shared multiple RR numbers with other RRs. These RR numbers represented different partnerships, commission splits and sometimes bore different branch office numbers. While these RR numbers were originally created by the Firm for legitimate purposes, the Respondent took advantage of the multiple RR numbers to execute unwelcome market timing transactions that otherwise might have been rejected by the mutual funds.
- l. For example, in 2001, the Respondent entered into a partnership with three RRs, "Mn", "MT", and "A" in connection with multiple accounts of hedge fund "SFS", making available four additional RR numbers. This resulted in over 900 market timing transactions in approximately 35 mutual fund families through 10 accounts with 10 entity names.
- m. The Respondent and RR "A" placed trades under different RR numbers and simultaneously traded in multiple accounts for the same customers. At other times, multiple RR numbers were used to execute trades for the same account without any legitimate business purpose. The Respondent was the subject of approximately 90 complaint/block notices that were sent to the Firm from mutual fund companies, yet he continued to engage in market timing.

Market Timing in Personal Accounts by the Respondent

- n. The Respondent also market timed in two personal accounts by entering similar market timing trades as those of his hedge fund customers. Between July 2000 and January 2002, the Respondent executed 740 trades in 18 mutual funds using two different personal accounts. He executed 116 trades in his personal accounts in PTM funds, during a time period when he was also receiving warning/shutdown letters from PTM regarding

customer accounts. He also executed 278 trades in MFS funds during that same period. His personal trading continued following warning and stop notices.

Use of Multiple Accounts Under Common Ownership and Control

- o. While multiple accounts may be opened for a client for legitimate purposes, multiple accounts had the potential to facilitate improper market timing. A client or RR could use multiple accounts to evade a mutual funds attempt to limit market timing by rotating trades through new or "fresh" accounts to execute trades that a fund would be less likely to perceive as belonging to the same customer, and thus less likely to cancel or reject. A client or RR could also use multiple accounts to break up the size of the trades known as "under the radar" trading' in order to avoid detection by the mutual funds.
- p. During most of the Relevant Period, the Firm did not prohibit customers from opening multiple accounts. The Respondent along with his partner RR "A" permitted certain market timing customers to establish multiple accounts. The accounts were approved by the Respondents Branch Office Manager. However, neither the Firm nor the Branch Office Manager ever approved multiple accounts for the purpose of obfuscating the controlling principals' identity to facilitate unwelcome market timing trades.
- q. Certain RRs, including the Respondent, did not comply with Firm policies that required RRs to aggregate accounts under common ownership and control in order to determine whether the trades were in violation of the Firm's and the funds' restrictions on market timing. Certain of these accounts were used by market timing customers and The practice of "under the radar" trading refers to the splitting of one trade into numerous smaller trades or into more than one account to avoid detection by mutual funds, which typically screened for market timing trades only above a designated dollar amount. Certain RRs, including the Respondent, for the unapproved purpose of circumventing market timing restrictions and executing trades that would have otherwise been rejected or cancelled had the mutual funds known the identity of the controlling principals and the purpose of the trades.

- r. For example, the Respondent and RR "A" handled market timing in nine separate accounts for hedge fund "P" which was the controlling principal for at least six separate LLC accounts. Between August 2000 and November 2001 the Respondent and RR "A" cumulatively executed over 850 trades in the PTM family of funds through these multiple entities.

Stop Notices

- s. Between 2000 and August 2002, over 90 mutual fund complaint/block notices were sent related to the Respondent. Typically the complaint notices from the funds warned of the detrimental effects of market timing on fund management and on the long-term shareholders. Some notices mentioned the disregard of past requests to stop trading. The Firm's Operations Department received these notices since the identity of the RRs and the customers were not known to the mutual funds. The Operations Department then forwarded these notices to the branch office manager who brought them to the attention of the RRs in question.
- t. Despite these communications, the Respondent continued to execute exchanges for market timing customers through multiple accounts and multiple RR numbers in violation of the mutual funds' anti-market timing policies. Although in certain cases mutual fund wholesalers encouraged the Respondent to continue trading notwithstanding the complaint notices sent by the funds, this encouragement did not constitute permission from the funds to continue unwelcomed market timing. In addition, the Firm's "Mutual Fund Sales Practice Compliance Manual" stated that RRs should not rely on information provided by mutual fund company sales representatives, wholesalers or phone representatives, but should instead always refer to the fund prospectus.
- u. For example, between June 2000 and August 2002, the Respondent and RR "A" used six RR numbers to trade in the "H" family of funds, on behalf of hedge fund "P", hedge fund "S", and hedge fund "R" through 14 accounts using two different branch numbers. The trading in the "H" family of funds continued despite numerous complaint notices sent by November 2001 that were followed by 36 additional exchanges. A number of these exchanges on behalf of "R" were in excess of \$1 million each.

- v. In another example, the Respondent and RR "A" executed numerous trades on behalf of hedge fund "P" in the "Px" family of funds after having been placed on notice that the fund did not accept market timing trades. During the Relevant Period, the "Px" fund sent four notices covering six accounts objecting to market timing. Each time the fund sent an objection notice the Respondent and RR "A" switched the account number and/or the branch code and/or the RR numbers in order to continue trading. Finally in 2002, after numerous accounts had been frozen by the fund, the Respondent and RR "A" continued trading in the "Px" funds for a different market timing hedge fund customer "S".
- w. By virtue of the foregoing, the respondent:
 - I. Violated NYSE Rule 476(a)(6) in that he engaged in conduct inconsistent with just and equitable principles of trade by engaging in improper practices with respect to mutual fund market timing that resulted in mutual funds accepting certain trades that they otherwise would have rejected; and
 - II. Violated NYSE Rule 476(a)(6) in that he engaged in conduct inconsistent with just and equitable principles of trade by engaging in improper practices with respect to mutual fund market timing in his personal accounts.
- 5. That Section 8.E (1)(j) of the Act provides, inter alia, that the registration Of a salesperson may be denied if the Secretary of State finds that such Salesperson has been suspended by any self-regulatory organization

Registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory Organization.
- 6. That NYSE is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
- 7. That by virtue of the foregoing, the Respondent's registration as a Salesperson in the State of Illinois is subject to denial pursuant to Section 8.E(1)(j) of the Act.

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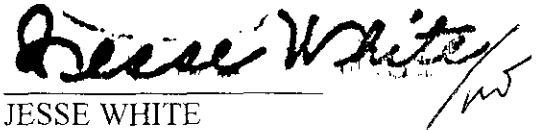
You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, can be found at www.cyberdriveillinois.com/departments/securities/lawrules.html

Delivery of Notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 24th day of August 2010.



JESSE WHITE
Secretary of State
State of Illinois

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